

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

GLORIA CLARK,)
)
Plaintiff,) **8:06CV313**
)
vs.) **ORDER**
)
JC PENNY CORPORATION,)
)
Defendant.)

This matter is before the court on the plaintiff's Demand for Jury Trial and Designation of Place of Trial (Filing No. 5). The relevant local rule, NECivR 40.1(b) provides:

The . . . removing party at the time of filing a petition for removal shall make written request for trial of the case at Omaha, Lincoln, or North Platte. . . . [T]he plaintiff in a removed action within ten (10) days after service of the notice of removal, may file a written request for trial at Omaha, Lincoln, or North Platte. If the request is for a place different from that requested by the plaintiff, third-party plaintiff, or removing party, it must be accompanied by a supporting affidavit.

NECivR 40.1(b) (emphasis added).

The defendant filed the notice of removal on April 10, 2006. See Filing No. 1. The defendant did not make a written request for place of trial, however the case was calendared for trial in Omaha "in the city where the clerk's office receiving the case for filing is located" in accordance with the local rules. See NECivR 40.1(c). The plaintiff's request for trial in Lincoln, Nebraska was timely, but did not otherwise comply with the local rules. Accordingly,

IT IS ORDERED:

1. The plaintiff's request for a change of the place of trial (Filing No. 5) is held in abeyance until **May 1, 2006**, pending compliance with NECivR 40.1(b), otherwise the motion will be deemed abandoned and denied.

2. In accordance with NE Civ R 40.1(b), should the plaintiff file an affidavit as set forth above, the defendant may file an affidavit in support of its request for place of trial within ten days thereafter. Alternatively, the parties may file a stipulation regarding the designation for place of trial **by May 1, 2006.**

DATED this 21st day of April, 2006.

BY THE COURT:

s/ Thomas D. Thalken
United States Magistrate Judge